

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

## FLASHPOINT TECHNOLOGY, INC.,

8

Plaintiff,

8

V.

8

C.A. No. 08-139-GMS

AIPTEK, INC., ARGUS CAMERA CO., LLC,  
BUSHNELL INC., DXG TECHNOLOGY (U.S.A.)  
INC., DXG TECHNOLOGY CORP., GENERAL  
ELECTRIC CO., LEICA CAMERA AG, LEICA  
CAMERA INC., MINOX GMBH, MINOX USA,  
INC., MUSTEK, INC. USA, MUSTEK, INC.,  
OREGON SCIENTIFIC, INC., POLAROID CORP.,  
RITZ INTERACTIVE, INC., RITZ CAMERA  
CENTERS, INC., SAKAR INTERNATIONAL,  
INC., D/B/A DIGITAL CONCEPTS, TABATA  
U.S.A., INC., D/B/A SEA & SEA, TARGET  
CORP., VISTAQUEST CORP., VUPOINT  
SOLUTIONS, INC., WALGREEN CO., and WAL-  
MART STORES, INC..

8

## JURY TRIAL DEMANDED

## Defendants

288

**PLAINTIFF'S REPLY TO OREGON SCIENTIFIC INC.'S COUNTERCLAIMS**

Plaintiff FlashPoint Technology, Inc. (“FlashPoint”) hereby responds to each paragraph of Oregon Scientific Inc.’s (“OSI”) Counterclaims as follows:

## **COUNTERCLAIMS FOR DECLARATORY JUDGMENT**

1. Admitted that these counterclaims purport to be declarations of non-infringement, invalidity and unenforceability of one or more claims of U.S. Patent Nos. 6,118,480, 6,177,956, 6,222,538, 6,223,190, 6,249,316, 6,486,914, and 6,504,575 (the “patents-in-suit”), but otherwise denied.
2. Upon information and belief, admitted.
3. Admitted.
4. Admitted.

5. Admitted.
6. Admitted that venue is proper pursuant to 28 U.S.C. § 1391, but otherwise denied.

7. Admitted that FlashPoint is the owner of the patents-in-suit, and that OSI has infringed one or more claims of the patents-in-suit, but otherwise denied.

8. Admitted that an actual case and controversy exists between FlashPoint and OSI concerning the infringement and validity of one or more claims of the patents-in-suit, but otherwise denied.

**COUNT I: DECLARATORY JUDGMENT OF NON-INFRINGEMENT, INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,118,480**

9. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

10. Denied.

11. Denied.

**COUNT II: DECLARATORY JUDGMENT OF NON-INFRINGEMENT, INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,177,956**

12. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

13. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that OSI infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '956 patent.

14. Denied.

**COUNT III: DECLARATORY JUDGMENT OF NON-INFRINGEMENT, INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,222,538**

15. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

16. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that OSI infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '538 patent.

17. Denied.

**COUNT IV: DECLARATORY JUDGMENT OF NON-INFRINGEMENT, INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,223,190**

18. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

19. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that OSI infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '190 patent.

20. Denied.

**COUNT V: DECLARATORY JUDGMENT OF NON-INFRINGEMENT, INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,249,316**

21. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

22. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that OSI infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '316 patent.

23. Denied.

**COUNT VI: DECLARATORY JUDGMENT OF NON-INFRINGEMENT, INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,486,914**

24. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

25. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that OSI infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '914 patent.

26. Denied.

**COUNT VII: DECLARATORY JUDGMENT OF NON-INFRINGEMENT,  
INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,504,575**

27. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

28. Denied.

29. Denied.

**PRAYER FOR RELIEF**

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment as follows against OSI as follows:

- A. That OSI takes nothing by its Counterclaims;
- B. That the Court award Plaintiff costs and attorneys' fees incurred in defending against these Counterclaims; and
- C. Any and all further relief for Plaintiff as the Court may deem just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues.

/s/ Evan O. Williford

Patrick J. Coughlin  
Michael J. Dowd  
Ray Arun Mandlekar  
James R. Hail  
Nathan R. Lindell  
COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
(619) 231-1058

David J. Margules (I.D. No. 2254)  
Evan O. Williford (I.D. No. 4162)  
BOUCHARD MARGULES & FRIEDLANDER, P.A.  
222 Delaware Avenue, Suite 1400  
Wilmington, DE 19801  
Telephone: (302) 573-3500  
dmargules@bmf-law.com  
ewilliford@bmf-law.com  
*Attorneys for Plaintiff Flashpoint Technology, Inc.*

John F. Ward  
John W. Olivo, Jr.  
David M. Hill  
Michael J. Zinna  
WARD & OLIVO  
380 Madison Avenue  
New York, NY 10017  
(212) 697-6262

Dated: June 23, 2008

**CERTIFICATE OF SERVICE**

I, Evan O. Williford, hereby certify that on June 23, 2008, I caused to be electronically filed a true and correct copy of the foregoing document – **Plaintiff's Reply to Oregon Scientific Inc.'s Counterclaims** – with the Clerk of Court using CM/ECF which will send notification of such filing to the following local counsel for defendants:

Richard K. Herrmann, Esquire  
Morris James LLP  
500 Delaware Avenue, Suite 1500  
Wilmington, DE 19801  
*Attorneys for Defendants Bushnell, Inc., and Tabata U.S.A., Inc. d/b/a Sea & Sea and*

Steven J. Balick, Esquire  
Ashby & Geddes  
500 Delaware Avenue  
Wilmington, DE 19899  
*Attorneys for Defendant General Electric Company*

Richard L. Horwitz, Esquire  
David E. Moore, Esquire  
Potter Anderson & Corroon LLP  
Hercules Plaza  
1313 North Market Street  
Wilmington, DE 19801  
*Attorneys for Defendants Wal-Mart Stores, and Target Corp and Walgreen Co.*

Daniel V. Folt, Esquire  
Matthew Neiderman, Esquire  
Aimee M. Czachorowski, Esquire  
Duane Morris  
1100 North Market Street, Suite 1200  
Wilmington, DE 19801  
*Attorneys for Defendant Aiptek, Inc.*

Richard D. Kirk, Esquire  
The Bayard Firm  
222 Delaware Avenue, Suite 900  
Wilmington, DE 19801  
*Attorneys for Defendant Sakar International Inc. d/b/a Digital Concepts*

Frederick L. Cottrell, III, Esquire  
Anne Shea Gaza, Esquire  
Richards Layton & Finger  
One Rodney Square  
Wilmington, DE 19801  
*Attorneys for Defendants Leica Camera AG and Leica Camera, Inc. and Mustek, Inc. USA*

Candice Toll Aaron, Esquire  
Saul Ewing LLP  
222 Delaware Avenue, Suite 1200  
Wilmington, DE 19801  
*Attorneys for Defendants Ritz Camera Centers, Inc. and Ritz Interactive, Inc.*

Collins J. Seitz, Jr., Esquire  
Kevin F. Brady, Esquire  
Connolly Bove Lodge & Hutz LLP  
1007 N. Orange Street  
Wilmington, DE 19801  
*Attorneys for Defendants Polaroid Corporation*

Paul E. Crawford, Esquire  
Kevin F. Brady, Esquire  
Connolly Bove Lodge & Hutz LLP  
1007 N. Orange Street  
Wilmington, DE 19801  
*Attorneys for Defendant Oregon Scientific, Inc.*

Francis DiGiovanni, Esquire  
Chad S.C. Stover, Esquire  
Connolly Bove Lodge & Hutz LLP  
1007 N. Orange Street  
Wilmington, DE 19801  
302-658-9141  
*Attorneys for Defendants DXG Technology [U.S.A.] Inc. and DXG Technology Corp.*

Richard D. Kirk, Esquire  
Bayard  
222 Delaware Avenue, Suite 900  
Wilmington, DE 19801  
*Attorneys for Defendant Sakar International Inc. d/b/a Digital Concepts and VuPoint Solutions, Inc.*

David S. Eagle, Esquire  
Kelly A. Green, Esquire  
Klehr Harrison Harvey Branzburg & Ellers  
919 N. Market Street, Suite 1000  
Wilmington, DE 19801  
*Attorneys for Defendant VistaQuest Corp.*

I further certify that on June 23, 2008, I caused a copy of the foregoing document to be served on the following defendants by First Class Mail:

Argus Camera Company LLC  
1610 Colonial Parkway  
Inverness, IL 60067

Minox USA Inc.  
438 Willow Brook Road  
Plainfield, NH 03781

/s/ Evan O. Williford

David J. Margules (I.D. No. 2254)  
Evan O. Williford (I.D. No. 4162)  
BOUCHARD MARGULES & FRIEDLANDER, P.A.  
222 Delaware Avenue, Suite 1400  
Wilmington, DE 19801  
Telephone: (302) 573-3500  
dmargules@bmf-law.com  
ewilliford@bmf-law.com  
*Attorneys for plaintiff Flashpoint Technology, Inc.*